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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

KARRESSA ROSE MINGHAM,

Defendant and Appellant.

C062749

(Super. Ct. No. MF031980A)

Defendant Karressa Rose Mingham was charged with inflicting corporal injury to her spouse resulting in a traumatic condition. After the trial court instructed the jury on the defenses of accident and self-defense, defendant requested no further defense instructions. The jury found defendant guilty as charged, and the trial court granted her probation, conditioned on her serving 180 days in jail. The trial court did not, however, state on the record that she was entitled to credit for the one day she had already served in jail.

Defendant raises two contentions on appeal: (1) the court had a sua sponte duty to instruct the jury on "the right to use

force to defend against a false imprisonment"; and (2) the court erred in not awarding her credit for the one day she served in jail. Because defendant's first contention has no legal merit, and she was in fact awarded credit for her time served, we will affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On January 16, 2009, defendant, her husband Justin Mingham, and their two children went to a party hosted by Glen and Autumn Simonds.¹ Sometime after midnight, the guests moved to the hot tub, and eventually, defendant, Justin, and Autumn were the only ones left in the hot tub. When defendant realized Autumn was touching Justin's penis, she became "uncomfortable" and "irritated." At that point, Autumn got out of the hot tub, went inside, and told Glen that defendant was "pissed off at [her]." Glen went outside to speak with defendant, while Justin came inside and "crashed out" on the couch. After talking for about 20 minutes, defendant told Glen she was going to leave the party. Because defendant was slurring her speech and appeared intoxicated, Glen responded, "you can't leave. You've been drinking."

Autumn then spoke with defendant, the women "made up," and "[t]he situation was completely resolved." Defendant still felt uncomfortable, however, and wanted to leave. Autumn and Glen told her she could not drive, and Glen offered to get her a cab.

¹ To avoid confusion, we will use first names throughout this opinion.

Despite everyone's concern, defendant gathered her belongings and her children and started packing up the car; she did not wake Justin to tell him they were leaving because she was "irritated with him." Ultimately, Glen woke Justin and sent him outside to take care of defendant. Around the same time, Autumn and two other guests went outside to try to stop defendant from driving by taking her keys from her. Once they got the car keys and defendant's children out of the car, Autumn and the others went back in the house, leaving defendant and Justin alone outside.

According to defendant, when Justin saw the women "wrestling" her for her keys, he "was very unclear as to what was going on in the situation, and so he took me and he grabbed me up against the car" to figure out what was going on. Defendant struggled to get free from him, "was able to . . . break away with one arm," and hit him in the face. Then, with a black eye, Justin went back inside and told everyone defendant had hit him.²

Deputy Sheriff Adam Grubb from the San Joaquin County Sheriff's Department was dispatched to the party around 5:30 a.m. Upon arrival, he offered Justin an emergency protective order, which Justin refused, and Glen did not want to

² It was undisputed that when defendant went back inside, she also punched Glen twice in the face, but there was conflicting testimony at trial as to whether Glen was restraining her at the time. Defendant and the deputy sheriff who took a statement from Glen that night testified Glen was restraining her, whereas Glen testified he was not.

press charges against defendant. The deputy proceeded to take statements from Justin, Glen, and another guest. He first spoke with Justin, who seemed to be "very embarrassed that he was beat up by his wife." The deputy testified at trial Justin told him he was scared of defendant and "was concerned about when she was going to get out of jail. . . . He thought if she was released, she might do more harm to him."³ Justin also told the deputy he got the black eye from his wife attacking him because she thought he had sex with another woman. She wanted to take the children home that night, but she was "prevent[ed]" because she was too intoxicated to drive, having "'been at the party drinking all day long.'"

Deputy Grubb spoke with defendant, who appeared agitated and intoxicated, smelling of alcohol and slurring her speech. As soon as she admitted hitting Justin, the deputy took her into custody. When the deputy took a statement from her, she said she was upset because she believed Justin "was having sexual intercourse with Autumn." The deputy testified she also told him she punched Justin twice in the face, giving him a black eye, but defendant later testified she never said that. She also never mentioned to Deputy Grubb that Justin held her up against the car when she hit him or that anyone restrained her that night. In fact, defendant never stated to anyone, around

³ Deputy Grubb also testified Justin told him about a previous domestic violence incident, during which defendant had caused a scar on his head. Justin, on the other hand, testified the scar was from a childhood accident.

the time of the incident or while testifying at trial, that she hit Justin to protect herself or because she feared him. The only reason she ever gave for hitting him was, "He put his arms on me and would not let me go."

Defendant was charged with inflicting corporal injury to a spouse. At trial, the jury was instructed on the defenses of accident and self-defense, and defense counsel requested no further defense instructions. After 35 minutes of deliberation, the jurors returned a guilty verdict. At the sentencing hearing, the court placed defendant on probation, conditioned on her serving 180 days in jail, but the court did not state on the record that she was entitled to credit for the one day she had already served in jail.

DISCUSSION

Defendant contends on appeal the trial court had a sua sponte duty to instruct the jury on "the right to use force to defend against a false imprisonment." She also contends the trial court failed to award her credit for time served in jail. We disagree with both contentions.

I

Instructional Error

"A court must instruct sua sponte on general principles of law that are closely and openly connected with the facts presented at trial." (*People v. Ervin* (2000) 22 Cal.4th 48, 90.) Although defendant contends the court had a sua sponte duty to instruct on "the right to use force to defend against a false imprisonment," she provides no legal authority for the

existence of that right. Defendant admits she "has not found a case on all fours" with her argument. The only case she cites, *People v. Watie* (2002) 100 Cal.App.4th 866, does not support the existence of that right, and the rule of law she draws from that case constitutes a substantial misstatement of case law. She asserts that in *Watie* "the court of appeal held that the trial court must instruct on both general self-defense and other legal principles, including the legality of a person's presence on the property." The only defense discussed in *Watie*, however, is the defense of a dwelling, which is irrelevant here. (*Id.* at pp. 876-878.) Most importantly, the case is not authority for the existence of "the right to use force to defend against a false imprisonment." Without providing a legal basis for her argument, defendant has failed to demonstrate error.

Where a party fails to cite authority supporting his or her argument on appeal, the appellate court is under no obligation to review the argument. (See *Nein v. HostPro, Inc.* (2009) 174 Cal.App.4th 833, 854-855 [by failing to cite legal authority supporting the contention that attorney fees should be reduced for fairness, appellant forfeited the issue on appeal].) Because defendant does not provide any legal authority in support of her argument, she has forfeited this issue.

II

Credit For Time Served

Defendant contends she was not awarded credit for her time served in jail because the trial court did not state that fact at the sentencing hearing. The People correctly point out,

however, that two minute orders in the clerk's transcript reflect credit for the time she has served. As defendant concedes this in her reply brief, the issue is not disputed -- the record properly reflects that she is entitled to one day of credit.

DISPOSITION

The judgment (order granting probation) is affirmed.

ROBIE, J.

We concur:

SCOTLAND, P. J.

BUTZ, J.